



COASTAL APPEALABLE FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

*Colony Lot 11***PROJECT INFORMATION**Name: SUB2013-00054 & CO14-002 File Number: _____Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☐ Minor Use Permit ☒ Development Plan/Conditional Use Permit
☐ Variance ☒ Land Division ☐ Lot Line Adjustment ☐ Other: Vacation Rental

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☐ Planning Department Hearing Officer
☒ Subdivision Review Board ☐ Planning Commission ☐ Other _____

Date the application was acted on: OCTOBER 6, 2014The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)

Explain: SEE ATTACHED SHEETS

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number _____ Reason for appeal (attach additional sheets if necessary)

See attached**APPELLANT INFORMATION**Print name: AVILA VALLEY ADVISORY COUNCILAddress: PO Box 65, Avila Beach 93424 Phone Number (daytime): 627-1993*Chair: Jim Hartig*

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature: Jim HartigDate: 10/13/2014AVAC CHAIRPERSON**OFFICE USE ONLY**

Date Received: _____

By: _____

Amount Paid: _____

Receipt No. (if applicable): _____

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JULY 1, 2010

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APPEAL OF SUB2013-00054 & CO14-0021 APPROVALS FOR COLONY LOT 11

The Subdivision Review Board's approval of the Development Plan and Tentative Parcel Map is inconsistent with the Title 23 Ordinance. Various regulations have been seemingly contrived in order to make the project fit applicant objectives. Most egregious is that the two attached single family residences on individually owned lots for vacation rentals are out of compliance by inappropriately applying side setback standards and ignoring the maximum resident floor area requirements. The significance of the Subdivision Review Board's faulty decisions to approve a project which does not adhere to Title 23 development standards, and to furthermore grant an exception to vacation rental ordinance standards, is the establishment of precedents for developing the remaining prominently located Colony lots. This would have a profound and lasting effect on the quality of life for residents and visitors in the community of Avila Beach.

PROJECT DESCRIPTION

The project has been a moving target with "condominium" and "planned development" mentioned recently by staff; however, no description of common area elements appears in the staff report, nor in any applicant generated materials provided to AVAC.

The Project Description in the application states: "Proposed parcel map with conditional use permit to subdivide parcel into two parcels for two new single family residences of 1983 and 1917 sf respectively with attached garages and balconies." *(The reference to conditional use permit should be development plan.)* A packet provided by the applicant on October 1 to the Avila Beach Committee contains a sheet titled "Project Overview" which also does not mention planned development. *If the project is an intended planned development, Common area elements should be described and / or mapped for public review and decision authority consideration.*

SIDE SETBACKS

(Ordinance sections referenced in this section appear at the end of the document.)

Although the applicant states that proposed side setbacks for the two proposed lots are 5 feet from outer side property lines, in actuality the setbacks are 3 feet since a building portion of each unit (around 40%) of the two stories would be 3 feet from the property line. There is no provision to allow such setback infringement, per **23.04.116**.

Title 23 contains no side setback standards for "planned development" in the multifamily land use category; Cluster Division applies to the single family category. Although not proposed, it appears that the following side setback scenarios could be consistent with the ordinance. **The proposed side setbacks are inconsistent with Title 23.**

- Retaining the existing 60 foot wide project parcel for two multifamily units, attached or detached, would entail required side setbacks of 5 feet, per **23.04.110a(1)**.
- A land division creating two parcels with 30 foot widths for single family detached units would entail a requirement for each lot to have two side setbacks, with each setback being 3 feet (totaling 12 feet), per **23.04.110a(1)**.
- Approval of the proposed land division before approval of the proposed development plan for a common wall development would eliminate the two common wall side setbacks and require remaining side setbacks of 6 feet, per **23.04.110f(2) & 23.04.110a(1)**.
- Approval of the proposed development plan for a common wall development, presumably a "planned development", before approval of the proposed parcel map would eliminate the

common wall side setbacks. The required remaining outer setbacks would be 5 feet, per **23.02.034c & 23.04.110a(1)**. Required by Development Plan section 23.02.034c is that "final action on the Development Plan shall occur prior to final action on the land division application." It appears that the land division should not be approved before the development plan.

The staff report states that the following section guides planned development projects, including side setbacks, despite that the section applies only to parcel sizes:

23.04.028

d. Condominiums: A condominium, planned development or similar residential unit ownership project pursuant to Section 66427 et seq. of the Subdivision Map Act may use smaller parcel sizes to be determined through Development Plan approval by the Review Authority, as set forth in Section 23.02.034, at the same time as tentative map approval, provided that:

- (1) The common ownership external parcel is in compliance with the provisions of this section; and
- (2) The density of residential units is in compliance with Section 23.04.084 where the project is located in the Residential Multi-Family category.

FLOOR AREA AND OPEN SPACE (23.04.084.b). High intensity has been determined by staff to apply to the proposed project. This intensity category determines the allowable maximum floor area and the minimum open space, per 23.04.084(b):

23.04.084

b. Determining allowable density: The allowable density, maximum floor area and minimum open area for a multiple-family site is to be shown in the following table (all area figures are expressed as percentages of the total usable site area). A minimum of 6,000 square feet of site area is required to establish 23.04.084- 090 more than one dwelling unit, pursuant to Section 23.04.044e(1) (Minimum Site Area - Multi-Family Dwellings):

INTENSITY FACTOR MAXIMUM UNITS PER ACRE MAXIMUM FLOOR AREA ¹ MINIMUM OPEN AREA ²			
Low	15	35%	55%
Medium	26	48%	45%
High	38	65%	40%

Notes:

1. The gross floor area of all residential structures, including upper stories, but not garages and carports.
2. Includes required setbacks, and all areas of the site except buildings and parking spaces.

Maximum Floor Area. The maximum allowable floor area for high intensity is 65% whereas the proposed project is for 74.4%. The calculation of 74.4% relied upon figures on plan sheet AO.1 and is consistent with Note 1 of 23.04.084.b and with the ordinance definition for floor area (23.11.030). **The maximum floor area is exceeded.**

Residential Area Square Feet			
	Unit A	Unit B	Total
Storage	281	281	562
Game Room	161	161	322
Main Floor Residence	1060	934	1994
Upper Floor Residence	762	822	1584
Total	2264	2198	4462

Total Lot Square Feet			6000
% Residential Area			74%

Minimum Open Areas. The open area minimum of 40% may be exceeded. Note 2 of 23.04.084.b does not allow building area or parking spaces to be included in calculation of open space. It appears that the garage approaches and portion of the lots incorporating Colony Drive Staff should not be included in the open area calculation.

PARKING (23.04.166c(5))

Assuming that the project is proposed as a planned development, the applicable parking standard under Residential Uses is: "Multi-Family Dwellings (Including for the purpose of parking calculation, condominiums & other attached ownership dwellings.)." Instead, the parking requirement for "Single-Family Dwellings (Including mobilehomes, on individual lots.)" is cited in the staff report as applicable. **Although a guest parking space is required for planned development, this is not proposed.**

Unlike the developed Colony lots which have angled access to garage parking for ease of ingress and egress, the proposed project's garage access is perpendicular to the narrow private access drive serving Colony lots. Backing from the garage would likely involve multiple turning motions. This could discourage garage parking and thereby exacerbate the severe parking shortage in Avila Beach.

Vacation-rental (23.08.165c)

The use of both units as vacation rentals conflicts with the residential vacation rentals ordinance which states: "within the Avila Beach Community Service District boundaries, in all residential/recreational land use categories, no two (2) contiguous parcels (APN#s) shall be vacation rentals and no two (2) contiguous or adjacent units in a parcel (one APN#) shall have vacation rentals." Avila Beach residents strongly support the vacation rental requirements.

Vacation rentals for each of the spacious two- bedroom dwellings which include game rooms can be expected to generate more than two vehicles. Even though the vacation rental ordinance limits vehicles to the onsite parking spaces, the project is likely to create enforcement situations. **Approval of an exception which allows both units to be vacation rentals should not occur without additional onsite parking to address Avila's severe parking shortage.**

Aesthetics

Building mass would be improved were the required side setbacks imposed because setbacks would be increased. Likewise, reduced floor area would provide improvement. In addition, the absence of plans for side setbacks should be remedied. **Side setbacks should be landscaped.**

REFERENCED ORDINANCES PERTINENT TO SIDE SETBACKS

23.04.116 - Projections Into Required Setbacks:

The setback requirements of this title are modified as follows, except for sites subject to the blufftop setback requirements of Section 23.04.118, where none of the following exceptions shall be allowed:

a. Decks: When constructed higher than 30 inches above the surrounding finish grade, a wood deck may extend into required setbacks as follows (decks less than 30 inches high are exempt from these requirements - see Section 23.04.104):

(1) Front setback: A deck is not to be located therein.

(2) Side setback: As determined by Sections 1206 and 1710 of the Uniform Building Code.

(3) Rear setback: A deck may occupy up to 30% of a required rear setback, but is to extend no closer than three feet to the rear property line.

b. Fire escapes: A ladder or stairs designed to be used exclusively as an upper floor fire escape may project into a required setback only as provided by Sections 1206, 1710 and 3305(n) of the Uniform Building Code.

c. Roof and wall features: Cantilevered and projecting architectural features including chimneys, bay windows, balconies, cornices, eaves, rain gutters, signs (where allowed), display windows, and solar collectors may project into a required setback up to one-third the width of the required setback, only as allowed by Sections 504, 1206 and 1710 of the Uniform Building Code, provided that the bottom edge of the projection is to be located either higher than eight feet or lower than four feet above finish grade.

d. Porches: Porches are defined as covered outdoor steps, stairs, and/or a raised platform with open sides, not exceeding 30 inches in height above grade at any point, or no higher than the ground floor of the building, located immediately adjacent to an entry of a building for the purpose of providing pedestrian access from the outdoor ground elevation to a building interior and not to be used as habitable living space. If the porch is enclosed, it will be considered habitable living space and shall not project into a required setback. Open is defined as being at least 60% open to the elements on three sides (no screening or glass).

Porches may project into required setbacks as provided by this subsection. If the platform portion of a porch is higher than 30 inches, it is considered a deck, and shall not project into a required setback.

(1) Front porch: A front porch and/or stairs may project up to six feet into a required front setback.

(2) Side porch: A porch and/or outside stairway may be located in a required side setback provided the porch does not extend into the side setback more than allowed by Section 1206, 1710 and 3305(n) of the Uniform Building Code.

(3) Rear porch: A porch in the required rear setback is subject to the same limitations as a deck, pursuant to Subsection a(3) of this section.

23.04.110a(1):

a. **General side setback requirements:** These requirements apply except where otherwise provided by subsections b through f of this section. See Section 23.04.116 (Projections into Required Setbacks) for additional applicable standards. The required general side setback is measured at the front setback line as follows:

(1) **Within urban and village areas.** 10 percent of the lot width, to a maximum of five feet on sites less than one acre in net area, but not less than three feet, and a minimum of 30 feet on sites of one acre or larger in net area. For sites of one acre or larger, a smaller setback may be granted using the adjustment provided in Section 23.05.104f. The adjustment shall consider the ultimate division of the property into the minimum parcel size as allowed by Section 23.04.025 et seq. applicable to the land use category in which the site is located, or as set by planning area standard.

23.04.110f(2):

f. **Side setbacks for special development types:**

(1) **Airspace condominiums.** The side setback for a building constructed within a

common-ownership parcel on a smaller individually-owned parcel or within airspace, shall be the same as required for interior setbacks by Section 23.04.114 (Interior Setbacks and Open Areas).

(2) Common wall development: Any two dwelling units, and/or their accessory garages, may be constructed on adjoining lots without setbacks between them provided that:

(i) The setback has been eliminated through Subdivision Map or Development Plan approval; and

(ii) A common wall or party wall agreement, deed restriction or other enforceable restriction has been recorded; and

(iii) The side setbacks opposite the common wall property line are not less than two times the minimum width required by this section.

(iv) Common wall construction is in compliance with the Uniform Building Code.

23.02.034(c)

c. Development Plan approval or disapproval. The authority to take final action on a Development Plan as set forth in this subsection is assigned to the Subdivision Review Board or Planning Commission. Where a Development Plan application is required in conjunction with a land division application, the advisory agency designated to take action on the land division by Title 21 of this code shall consider both the Development Plan application and the land division application on the same agenda. **Final action on the Development Plan shall occur prior to final action on the land division application.** In all other cases requiring Development Plan approval only, the Planning Commission is assigned to take final action. Decisions of the Review Authority may be appealed to the Board of Supervisors (Section 23.01.042), and certain projects may also be appealed to the Coastal Commission pursuant to Section 23.01.043.